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August 14, 2017

VIA ECF

Honorable Stuart M. Bernstein
United States Bankruptcy Judge
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004-1408

Re: Picard v. Estate of Richard M. Stark et al., Adv. Pro. No. 10-04971 (SMB) (Bankr. S.D.N.Y.) and Picard v. Thomas L. Stark et al., Adv. Pro. No. 10-05295 (SMB) (Bankr. S.D.N.Y.)

Dear Judge Bernstein,

We write to request a conference with the Court, under Local Bankruptcy Rule 7007-1(a) and (b) and your Honor's Chambers Rules, to address a discovery dispute in the above-referenced adversary proceedings.

As your Honor may recall, the Trustee's counsel and counsel for the defendants appeared before you on March 29, 2017 to resolve an impasse between the parties regarding the defendants' refusal to agree to a discovery schedule, or otherwise participate in discovery. (*See* Letter from Keith R. Murphy to the Honorable Stuart M. Bernstein, dated Mar. 8, 2017, ECF Nos. 19 (10-05295) and 20 (10-04971)). At the Court's direction, the parties agreed to a discovery schedule and memorialized those dates in a case management notice, which was filed on April 10, 2017. (*See* ECF Nos. 21 (10-05295) and 22 (10-04971); *see also* Omnibus H'rg Tr. 69:21, Mar. 29, 2017, ECF No. 27).

Thereafter, the parties served their initial disclosures on April 28, 2017. On June 28, 2017, the Trustee served his first sets of requests for interrogatories, admissions, and production of documents, on each of the defendants in both adversary proceedings. As per Federal Rules of Civil Procedure 33, 34, and 36, the defendants' responses were due on July 28, 2017. Under the current schedule, fact discovery is set to close on September 13, 2017.

On July 21, 2017, we asked defendants' counsel to provide their clients' availability for depositions. On July 24th and July 28th, defendants' counsel telephoned to request an extension of time to respond to the Trustee's discovery requests to a date at, or beyond, the end of fact

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discovery. In an effort to accommodate their request, but not go beyond the deadline, defendants were given two one week extensions, the last of which required them to respond by August 11, 2017. To date, defendants have neither responded to the Trustee's discovery demands, nor confirmed dates for the depositions.

The Trustee respectfully requests a conference with the Court to address this ongoing dispute. Such a conference will assist the Trustee in completing the discovery to which he is entitled, and will hopefully obviate the need for discovery-related motion practice.

Sincerely,

/s/ Dominic A. Gentile

Dominic A. Gentile

cc: Keith R. Murphy, Esq
Robertson D. Beckerlegge, Esq.
Richard Haddad, Esq.
Andrew S. Halpern, Esq.